

REMARKS

Claims 1, 6-24, 28, 30, 34, 36, 40, 43, 46, 49, 52, 55, 58, 61, 67, 73-76, and 80-114 are pending after entry of this paper. Claims 3, 6-63, 80-83, and 112 have been rejected. Claims 113 and 114 are new. Claim 1 has been found allowable. Claims 5 and 109 have been objected. Claims 67, 73-76, 84-108, and 110-111 have been withdrawn. Claims 2-5, 25-27, 29, 31-33, 35, 37-39, 41-42, 44-45, 47-48, 50-51, 53-54, 56-57, 59, 60, 62-66, 68-72, and 77-79 have been cancelled. Applicants reserve the right to pursue withdrawn claims in a divisional or continuing application.

Claims 10, 24, 28, 36, 40, 43, 46, 49, 52, 55, 58, 61, 80, and 112 have been amended. Withdrawn claims 67, 73-76, 84, 92, 96-102, and 110 have been amended. The subject matter of now cancelled claims 3 and 5 has been incorporated into independent claims 24, 36, 40, 43, 46, 49, 52, 55, 58, 61, 80, and 112, and withdrawn claims 84 and 92. The dependencies of claim 28, and withdrawn claims 67, 73-76, and 110 have been amended. Typographical errors have been corrected in claims 40, 43, 46, 49, and 52, and withdrawn claims 96-102.

Claims 40, 43, 46, and 49 have been amended to reflect the number of units of endo-1,4- β -glucanase activity per gram of dry composition. Support for the compositions having specified levels of endo-1,4- β -glucanase activity may be found throughout the instant specification, for example, in Table 4 on page 28 of the WO publication (WO98/15633) from which the instant application nationalized. The values of endo-1,4- β -glucanase activity ranges from 33 to 191 units/ gram of the *Chrysosporium* C1 preparations 47.1.1 through 47.15.1, which were all carried out in shake flasks with the same growth medium (Example 5- p 26). Specifically, support for 33 U/g; 120 U/g; and 191 U/g may be found throughout the instant specification, for example, in preparation numbers 47.14.1; 47.1.1 or 47.5.1; and 47.11.1, respectively. The measurement for "unit/ 1 gram of dry preparation" may be found throughout the instant specification, for example, in Table 6 on page 31. The Examiner's attention is directed to the claimed activities that are similar to those granted in the parent patent,

USPN: 5,811,381. As the Examiner is aware, a terminal disclaimer of the `381 patent was filed December 29, 2000 in the instant application.

No new matter has been introduced by these amendments and additions. Reconsideration and withdrawal of the pending rejections in view of the below remarks are respectfully requested.

Applicants wish to thank the Examiner for taking the time to discuss the proposed claim amendments on March 12, 2010. In view of the allowable subject matter of claim 1, i.e., the specific deposited strain, the Examiner indicated that should the allowable subject matter be incorporated into the pending claims, these amended claims should be found allowable as well.

Request for Rejoinder under MPEP 821.04(b)

In view of the restriction requirement between the product and process claims and the election and subsequent allowability of the isolated culture of product claim 1 and potentially allowable product claims 6-24, 28, 30, 34, 36, 40, 43, 46, 49, 52, 55, 58, 61, 83, 109, 112, 113, and 114 applicants respectfully request that all withdrawn claims to the non-elected process claims, which depend from or have been amended to depend from the allowable product claims, be considered for rejoinder. Specifically, applicants respectfully request rejoinder of at least process claims 67, 73-76, 84, 92-95, and 110-111 and any others that the Examiner deems appropriate.

Response to Rejections under 35 U.S.C. §103

Claims 3, 6-63, 80-83, and 112 have been rejected under 35 U.S.C. §103(a) as being unpatentable over USPN: 4,661,289 to Parslow et al. in view of Janeckova et al. (*Ceska Mykologie*, (1977) Vol. 31, No. 4, pp. 206-213 (Abstract)). Applicants respectfully traverse the rejection. However, in order to expedite prosecution and without disclaimer of or prejudice to the subject matter recited therein, applicants

present amended claims. The instant claims are not obvious over Parslow in view of Janeckova. Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §103(a) rejection of claims 3, 6-63, 80-83, and 112 in view of the aforementioned remarks.

Dependent Claims

The applicants have not independently addressed all of the rejections of the dependent claims. The applicants submit that for at least similar reasons as to why independent claim(s) 1, 24, 36, 40, 43, 46, 49, 52, 55, 58, 61, 80, 84, 86, 92, and 112 from which all of the dependent claims 6-23, 28, 37-39, 41-42, 44-45, 47-48, 50-51, 53-54, 56-57, 59-60, 62-63, 67-79, 81-83, 85, 87-91, and 93-111 depend are believed allowable as discussed *supra*, the dependent claims are also allowable. The applicants however, reserve the right to address any individual rejections of the dependent claims and present independent bases for allowance for the dependent claims should such be necessary or appropriate.

Thus, applicants respectfully submit that the invention as recited in the claims as presented herein is allowable over the art of record, and respectfully request that the respective rejections be withdrawn.

CONCLUSION

Based on the foregoing amendments and remarks, the applicants respectfully request reconsideration and withdrawal of the pending rejections and allowance of this application. The applicants respectfully submit that the instant application is in condition for allowance. Entry of the amendment and an action passing this case to issue is therefore respectfully requested. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is

invited to contact the undersigned at the number provided. Favorable action by the Examiner is earnestly solicited.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **50-2547**, Order No. **214275-30003**.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-2547**, Order No. **214275-30003**.

Respectfully submitted,
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Dated: May 3, 2010

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